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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,133	02/07/2002	Richard C. Albert	FL0158 US NA	1388

23906 7590 10/15/2004

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WILMINGTON, DE 19805

EXAMINER

DICUS, TAMRA

ART UNIT PAPER NUMBER

1774

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/072,133

Applicant(s)

ALBERT, RICHARD C.

Examiner

Tamra L. Dicus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The objection is withdrawn due to Applicant's amendments.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 (amended), 3, 11, 13, 15 and 18 stand rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,536,530 to Landers et al. for reasons as previously set forth in the Office action mailed 03/29/04.

To the new limitation, "said flakes being pressed onto or partially embedded in said preformed fluoropolymer film," is provided for by Landers at col. 2, line 33 and col. 3, line 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2, 5, 12, 14, 16 (amended), 17, 19, and 20 (amended) stand rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,536,530 to Landers et al. in view of USPN 6,336,988 to Enlow et al. for reasons of record previously set forth in the Office action mailed 03/29/04.

To the new limitation, "said flakes being pressed onto or partially embedded in said preformed fluoropolymer film," is provided for by Landers at col. 2, line 33 and col. 3, line 3.

Claims 6-10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,536,530 to Landers et al. in view of USPN 6,336,988 to Enlow et al. and further in view of USPN 5,657,603 to Goodhart et al. for reasons of record previously set forth in the Office action mailed 03/29/04.

Response to Arguments

Applicant's arguments filed 07-26-04 have been fully considered but they are not persuasive. Applicant argues the flakes are not partially, but completely embedded and Landers has a coating over the chips. Applicant further alleges Landers does not teach anywhere the chips are partially embedded. Perhaps Applicant did not consider the citing at col.2, line 33 and col. 3, line 3 of Landers that teach the fluoropolymer chips are partially embedded. Further that Landers has a coating over the chips is not persuasive because the instant claims do not exclude a coating over the flakes. Applicant argues Landers would not teach the motivation to a second color embedded in a clear or colored film, however, Landers desires to improve visual appeal and texture at col. 1, lines 15-20. As previously set forth, Enlow was used to teach the same fluoropolymers (PVF or PVDF selection of instant claim 14) having different colors in a film or flake, including the same pigments such as titanium dioxide (one color) and mixed metal

pigments (a second color) in an extruder to provide a visual appeal such as a wood grain print. See col. 14, lines 1-3 and 20-45 of Enlow. Applicant argues claim 16 over the same partially embedded limitation. The Examiner argues the same reasons applied above apply to claim 16. Applicant alleges Goodhart's disclosure is limited to coatings which are applied as liquids and there is no teaching whatsoever of the use of preformed fluoropolymer films and clearly no disclosure of fluoropolymer flakes. The Applicant does not limit the claim to coatings that are not liquid. Goodhart was not used to teach fluoropolymer films and flakes, Landers was. As previously set forth, Goodhart was used to teach metal and coated substrates per instant claims 6-10 for fabricating roofing shingles. Goodhart provides motivation for utilizing metal or alloy coated substrates with fluoropolymer coatings of PVF or PVDF at col. 10, lines 45-55.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamra L. Dicus whose telephone number is 571-272-1519. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.

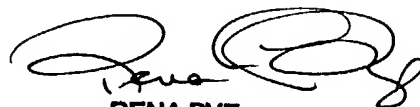
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tamra L. Dicus
Examiner
Art Unit 1774

October 7, 2004



RENA DYE
SUPERVISORY PATENT EXAMINER

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